

## § 600.7

(2) The activity is being or would be conducted by the applicant using its own resources or those donated or provided by third parties; however, DOE support of that activity would enhance the public benefits to be derived and DOE knows of no other entity which is conducting or is planning to conduct such an activity.

(3) The applicant is a unit of government and the activity to be supported is related to performance of a governmental function within the subject jurisdiction, thereby precluding DOE provision of support to another entity.

(4) The applicant has exclusive domestic capability to perform the activity successfully, based upon unique equipment, proprietary data, technical expertise, or other such unique qualifications.

(5) The award implements an agreement between the United States Government and a foreign government to fund a foreign applicant.

(6) Time constraints associated with a public health, safety, welfare or national security requirement preclude competition.

(7) The proposed project was submitted as an unsolicited proposal and represents a unique or innovative idea, method, or approach which would not be eligible for financial assistance under a recent, current, or planned solicitation, and if, as determined by DOE, a competitive solicitation would not be appropriate.

(8) The responsible program Assistant Secretary (or official of equivalent authority), with the approval of the Deputy Assistant Secretary for Procurement and Assistance Management, determines that a noncompetitive award is in the public interest. This authority may not be delegated.

(d) *Approval requirements.* Determinations of noncompetitive awards shall be approved, prior to award, by the initiating program official, by the responsible program Assistant Secretary (or official of equivalent authority) or designee, who shall be not less than two organizational levels above that of the project officer, by the Contracting Officer and shall be concurred in by local legal counsel. Where the amount of DOE funds is less than \$1,000,000 for a noncompetitive financial assistance

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award, the determination shall be approved by the cognizant HCA and the Contracting Officer. Concurrence for a particular award or class of awards of \$1,000,000 or less may be waived by local legal counsel.

(e) *Documentation requirements.* A determination of noncompetitive financial assistance (normally prepared by the responsible program official) explaining the basis for the proposed noncompetitive award shall be placed in the award file.

### **§ 600.7 Small and disadvantaged and women-owned business participation.**

(a) DOE encourages the participation in financial assistance awards of small businesses, including those owned by socially and economically disadvantaged individuals and women, of historically black colleges, and of colleges and universities with substantial minority enrollments.

(b) For definitions of the terms in paragraph (a) of this section, see the Higher Education Act of 1965, and 15 U.S.C. 644, as amended by the Federal Acquisition Streamlining Act (FASA), and implementing regulations under FASA issued by the Office of Federal Procurement Policy.

(c) When entering into contracts under financial assistance awards, recipients and subrecipients shall comply with the requirements of Section 600.144 or Section 600.236, as applicable.

### **§ 600.8 Solicitation.**

(a) *General.* A solicitation for financial assistance applications shall be in the form of a program rule or other publicly available document which invites the submission of applications by a common due date or within a prescribed period of time.

(1) A Program Assistant Secretary (or official of equivalent authority) may annually issue a program notice describing research areas in which financial assistance is being made available. Such notice shall also state whether the research areas covered by the notice are to be added to those listed in a previously issued program rule. If they are to be included, then applications received as a result of the notice